

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Communications Assistance for Law)	ET Docket No. 04-295
Enforcement Act and Broadband Access and)	
Services)	RM-10865

**REPLY COMMENTS OF
THE UNIVERSITY OF VIRGINIA**

I. Introduction and Summary

The University of Virginia (the “University”) respectfully submits these reply comments in response to the Further Notice of Proposed Rulemaking adopted in the above-captioned docket.¹ The Commission’s potential expansion of the Communications Assistance for Law Enforcement Act (“CALEA”) to cover institutions of higher education would impose sizeable unanticipated costs on the University which inevitably would detract from its core educational mission. The University of Virginia therefore supports the comments filed by the Higher Education Coalition and submits these comments to amplify several points based on its own experience and circumstances, as follows:

(A) The Commission should clearly state that the private non-commercial communications networks operated by non-profit colleges, universities, and research institutions are exempt from the requirements of CALEA;

(B) The University of Virginia has not received an order for electronic surveillance by a law enforcement agency in the past 10 years, but has cooperated with other valid law enforcement requests for information and stands ready to cooperate should it receive a valid order for electronic surveillance in the future; and

¹ *Communications Assistance for Law Enforcement Act and Broadband Access and Services*, First Report and Order and Further Notice of Proposed Rulemaking, ET Docket No. 04-295, FCC 05-153 (rel. Sept. 23, 2005) (“*Order*”).

(C) Imposing CALEA's requirements on the University's network would be costly and would diminish the University's ability to fulfill its core educational mission and its responsibilities to its students and faculty, and to society at large.

II. Discussion

(A) Congress Did Not Intend CALEA's Coverage to Extend Over the University.

CALEA expressly exempts "equipment, facilities, or services that support the transport or switching of communications for private networks." Thus, Congress never intended CALEA's requirements to cover non-profit institutions of higher education and research that operate non-commercial broadband networks. The Commission created confusion regarding CALEA's scope when the Commission stated: "To the extent....that private networks are interconnected with a public network, either the PSTN or the Internet, providers of the facilities that support the connection of the private network to a public network are subject to CALEA," but failed to expressly except universities and research institutions. The University of Virginia maintains a connection to the Internet in order to further its core missions of education, research, and public service. The Commission's administrative rule making arguably expands CALEA's reach beyond the original intent and language of Congress, as expressed by the statutory language, and would impose substantial financial and administrative burdens on the University. Accordingly, the Commission should clarify that only commercial entities expressly covered by CALEA are subject to the statute's requirements including the forthcoming assistance-capability requirements.

(B) Imposing CALEA's Requirements on the University is Unnecessary.

The University of Virginia maintains a police department and routinely cooperates with other local, state, and federal law enforcement agencies. The University responds promptly to

valid law enforcement requests for information. However, the University has not received any request or order for electronic surveillance during the past 10 years. The University pledges its continued cooperation with valid law enforcement requests for information, including orders for electronic surveillance that it may receive in the future. Based on the University's demonstrated record of cooperation, however, the anticipated financial and administrative burdens that would be required to comply with CALEA's requirements are experientially unwarranted.

(C) CALEA's Compliance Costs Would Detract from the University's Core Mission.

The University of Virginia, like other higher education and research institutions, carefully allocates its limited financial and human resources to fulfill its core educational mission. Compliance with some or all assistance capability requirements under CALEA will impose costly, unanticipated, and unwarranted burdens on these limited resources. While it is difficult to construct detailed estimates of these costs because the Commission has not yet published standards or specifications, the University expects that expensive new equipment, network redesign and reconfiguration, and additional personnel will be required. In addition, the costs to retrofit the University's network for CALEA compliance will be substantially more burdensome if the Commission or DOJ require the ability to intercept traffic between points within the University's network. In such a case, it is conceivable that the University would have to replace every piece of its network equipment. These unwarranted costs unquestionably will divert significant resources from the University's primary missions of education, research, and public service at a time when resources are increasingly scarce.

III. Conclusion

The University of Virginia respectfully requests that the Commission clarify that private non-commercial networks managed and operated by non-profit higher education and research institutions are not subject to CALEA. Alternatively, the University respectfully requests that the Commission grant an exemption to higher education and research institutions under Section 102(8)(C)(ii) of CALEA.

Respectfully submitted,

University of Virginia

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